

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**DONELL THOMPSON, JR.,**

**Plaintiff,**

**v.**

**JEFF WILLIAMS et al.,**

**Defendant.**

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**Case No. CIV-24-772-SLP**

**REPORT AND RECOMMENDATION**

Plaintiff, a prisoner appearing *pro se*, has filed this action under 42 U.S.C. § 1983 alleging various violations of his constitutional rights. United States District Judge Scott L. Palk has referred the matter to the undersigned magistrate judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B).

On August 29, 2024, the Court granted Plaintiff's Motion for Leave to Proceed *in Forma Pauperis*. However, pursuant to 28 U.S.C. § 1915(b)(1), Plaintiff was required to pay an initial partial filing fee of \$11.93. Plaintiff's deadline to pay was September 16, 2024. *See* ECF No. 6.

On September 18, 2024, Plaintiff submitted a Notice of Change of providing an address that appeared to indicate he was no longer incarcerated and on September 26, 2024, mail previously sent to the Plaintiff at the Stephens County Jail was returned to the Court. *See* ECF Nos. 8 and 9.

On October 8, 2024, the Plaintiff was advised that he must supplement his financial information through completion of an updated motion for leave to proceed *in forma*

*pauperis* for non-prisoners. Plaintiff's updated motion for leave to proceed *in forma pauperis* was due by October 25, 2024. As directed Plaintiff was provided the proper form. The Court's Order Granting Leave to Proceed in Forma Pauperis (ECF No. 6) was stricken. *See* ECF No. 10 and Staff Notes dated 10/08/2024.

A review of the Court file indicates that as of this date, the Plaintiff has failed to comply with the Court's Order, show good cause for his failure to do so, or request an extension of time to comply with the Court's order. In fact, Plaintiff has not responded to the Court's most recent Order in any way. Further, there is no indication from the docket that Plaintiff did not receive the Court's previous Order which was mailed to Plaintiff's address of record. *See id.* LCvR 5.4.(a).

The undersigned finds that Plaintiff's failure to comply with the Court's Order, in light of the Court's right and responsibility to manage its cases, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Center*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (*sua sponte* dismissal for failure to comply with Court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing actions without prejudice for failure to comply).

### **RECOMMENDATION**

Based on the foregoing findings, it is recommended that this action be **DISMISSED without prejudice** for Plaintiff's failure to comply with this Court's orders. Plaintiff is advised of his right to file an objection to this Report and Recommendation

with the Clerk of Court by **November 25, 2024**, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Plaintiff is further advised that any failure to make timely objection to this Report and Recommendation waives the right to appellate review of the factual and legal issues addressed herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

This Report and Recommendation terminates the referral to the undersigned Magistrate Judge in the captioned matter.

ENTERED on November 7, 2024.

  
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SHON T. ERWIN  
UNITED STATES MAGISTRATE JUDGE